THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.3277 OF 1999

DATED: 18-04-2007

Between :

U. Narayana … Petitioner

And

1. The District Collector, Kurnool., and
   Others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.3277 OF 1999

ORDER :

The petitioner herein filed M.V.O.P.No.148 of 1991 on the file of the Court of Principal District Judge-cum-Motor Accidents Claims Tribunal at Kurnool seeking compensation of Rs.1 lakh for the death of his son in a motor accident. The Tribunal had passed a decree on 27-9-1993 awarding compensation of Rs.25,000/- together with interest at 12% p.a. making the third respondent alone liable. Pursuant thereto, the petitioner filed E.P.No.8 of 1994 in M.V.O.P.No.148 of 1991 for arrest of the 3rd respondent and for detention in civil prison. The said E.P. was dismissed by the Tribunal on the ground that the petitioner failed to prove that the 3rd respondent has sufficient means to satisfy the decretal amount. Aggrieved by the same, the petitioner filed CRP.No.2012 of 1996. The same was dismissed by this Court by order dated 7-6-1996. However, the petitioner was granted liberty to file a fresh execution petition under Section 174 of the Motor Vehicles

Act, 1988 seeking a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue. The recovery certificate was issued under Section 174 of the Motor Vehicles Act by order date 29-8-1997. On the basis of the same, the petitioner made an application before the 1st respondent District Collector, Kunool which was rejected on the ground that the third respondent herein filed Insolvency Petition in the Court of the Senior Civil Judge, Adoni and the same was pending trial. Aggrieved by the same, the present writ petition has been filed.

Though various contentions have been raised on merits, it is brought to my notice by the learned Counsel for the petitioner that during the pendency of this writ petition, I.P.No.2 of 1994 filed by the 3rd respondent herein was dismissed by the Court of the Senior Civil Judge, Adoni and, therefore, the objection raised in the impugned order does not subsist as on today.

A copy of the order in I.P.No.2 of 1994 has been placed before this Court, which shows that the same was dismissed by order dated 23.12.1999. Since I.P.No.2 of 1994 filed by the 3rd respondent herein was dismissed long back, the 1st respondent is bound to consider the representation of the petitioner dated 30-11-1998 and pass appropriate orders in accordance with law for recovery of the amounts in terms of the recovery certificate dated 29-8-1997 issued under Section 174 of the Motor Vehicles Act.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of with a direction to the 1st respondent to reconsider the request of the petitioner vide his representation dated 30-11-1998 and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of six weeks from the date of receipt of this order. No costs.

G. ROHINI, J.

Dt. 18-04-2007
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